



Billing Code: 6570-01P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Extension Without Change of an Existing Collection; Comments Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commission announces that it intends to submit to the Office of Management and Budget (OMB) a request for a three-year extension without change of the existing recordkeeping requirements under 29 CFR part 1602 et seq., Recordkeeping and Reporting Requirements under Title VII, the ADA, and GINA. The Commission is seeking public comments on the proposed extension.

DATES: Written comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: Comments should be sent to Bernadette Wilson, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street, NE, Washington, DC 20507. As a convenience to commenters, the Executive Secretariat will accept comments totaling six or fewer pages by facsimile ("FAX") machine. This limitation is necessary to assure access to the equipment. The telephone number of the fax receiver is (202) 663-4114. (This is not a toll-free number). Receipt of FAX transmittals will not be acknowledged, except that the sender may request

confirmation of receipt by calling the Executive Secretariat staff at (202) 663-4070 (voice) or (202) 663-4074 (TTY). (These are not toll-free numbers.) Instead of sending written comments to EEOC, you may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. All comments received through this portal will be posted without change, including any personal information you provide. Copies of comments submitted by the public to EEOC directly or through the Federal eRulemaking Portal will be available for review, by advance appointment only, at the Commission's library between the hours of 9:00 a.m. and 5 p.m. Eastern Time or can be reviewed at <http://www.regulations.gov>. To schedule an appointment to inspect the comments at EEOC's library, contact the library staff at (202) 663-4630 (voice) or (202) 663-4641 (TTY). (These are not toll-free numbers.)

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, (202) 663-4668, or Erin N. Norris, Senior Attorney, (202) 663-4876, Office of Legal Counsel, 131 M Street, NE, Washington, D.C. 20507. Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663-4191 (voice) or (202) 663-4494 (TTY). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Equal Employment Opportunity Commission (EEOC) enforces Title VII of the Civil Rights Act of 1964 (Title VII), Title

I of the Americans with Disabilities Act (ADA), and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), which prohibit discrimination on the basis of race, color, religion, sex, national origin, disability, or genetic information. Section 709(c) of Title VII, section 107(a) of the ADA, and section 207 of GINA authorize the EEOC to issue recordkeeping and reporting regulations that are deemed reasonable, necessary or appropriate. EEOC has promulgated recordkeeping regulations under those authorities that are contained in 29 CFR part 1602 et seq. Those regulations do not require the creation of any particular records but generally require employers to preserve any personnel and employment records they make or keep for a period of one year. The EEOC seeks extension of the recordkeeping requirement in these regulations without change.

Overview of This Information Collection

Collection title: Recordkeeping under Title VII, the ADA, and GINA.

OMB Control number: 3046-0040.

Description of affected public: Employers with 15 or more employees are subject to Title VII, the ADA, and GINA.

Number of responses: 914,843.

Reporting hours: Not applicable.

Number of forms: None.

Federal cost: None.

Abstract: Section 709(c) of Title VII, 42 U.S.C. 2000e-8(c), section 107(a) of the ADA, 42 U.S.C. 12117(a), and section 207 of GINA, 42 U.S.C. §§ 2000ff-6 require the

Commission to establish regulations pursuant to which employers subject to those Acts shall make and preserve certain records to assist the EEOC in assuring compliance with the Acts' nondiscrimination in employment requirements. This is a recordkeeping requirement. Any of the records maintained which are subsequently disclosed to the EEOC during an investigation are protected from public disclosure by the confidentiality provisions of section 706(b) and 709(e) of Title VII which are also incorporated by reference into the ADA at section 107(a) and GINA at section 207.

Burden statement: The estimated number of respondents is 914,843 employers. An employer subject to the recordkeeping requirement in 29 CFR Part 1602 must retain all personnel or employment records made or kept by that employer for one year, and must retain any records relevant to charges filed under Title VII, the ADA, or GINA until final disposition of those matters, which may be longer than one year. This recordkeeping requirement does not require reports or the creation of new documents, but merely requires retention of documents that an employer has already made or kept in the normal course of its business operations. Thus, existing employers bear no burden under this analysis, because their systems for retaining personnel and employment records are already in place. Newly formed firms may incur a small burden when setting up their data collection systems to ensure compliance with EEOC's recordkeeping requirements. We assume some effort and time must be expended by employers to familiarize themselves with the Title VII, ADA, and GINA recordkeeping requirements and inform staff about those requirements. We estimate that 30 minutes would be needed for this one-time familiarization process. Using 2011 data from the Small Business Administration, we

estimate that there are 82,516 firms that would incur this start-up burden. Assuming a 30 minute burden per firm, the total annual hour burden is 41,258 hours.

Pursuant to the Paperwork Reduction Act of 1995, and OMB regulation 5 CFR 1320.8(d)(1), the Commission solicits public comment to enable it to:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the Commission's functions, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

For the Commission

Dated: January 23, 2015.

Jenny R. Yang,
Chair.

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